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Gavin Liggett, Jordan Gunderson,
Keith McKeechan and James Wuest*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KENTRELL D. WELCH,

Plaintiff,

v.

LIGGETT, *et al.*,

Defendants.

Case No. 2:19-cv-01243-APG-NJK

**DEFENDANTS' UNOPPOSED
MOTION FOR AN EXTENSION OF
TIME TO REPLY TO PLAINTIFF'S
RESPONSE (ECF NO. 100) TO
DEFENDANTS' MOTION
(ECF NO. 92) TO DISMISS THE
AMENDED COMPLAINT
(ECF NO. 28)**

[FIRST REQUEST]

Defendants, Gavin Liggett, Jordan Gunderson, Keith McKeechan, and James Wuest, by and through counsel, Aaron D. Ford, Attorney General for the State of Nevada, and Alexander J. Smith, Deputy Attorney General for the State of Nevada, Office of the Attorney General (OAG), hereby ask the court to extend the time to reply to Plaintiff's response (ECF No. 100) to Defendants' motion (ECF No. 92) to dismiss the amended complaint (ECF No. 28). The current deadline is September 29, 2021, but Defendants request a new deadline of October 11, 2021.

Both defense attorneys assigned to this action no longer represent Defendants because the former have left the employment of the OAG; just today, Attorney Smith assumed defense responsibilities in this action and immediately telephoned Plaintiff's

1 counsel to discuss Defendants' pending motion (ECF No. 92) to dismiss, the filing of a reply
 2 brief, and any outstanding discovery disputes, the latter of which Defendants are keen to
 3 resolve as soon as possible. Plaintiff's counsel stated that he does not object to this motion.

4 Rule 6(b), Federal Rules of Civil Procedure, provides that "[w]hen an act may or must
 5 be done within a specified time, the court may, for good cause, extend the time []"
 6 Under Rule 6, good cause is not a rigorous or high standard, and courts have construed the
 7 test broadly. *See Ahanchion v. Kenan Pictures*, 624 F.3d 1253 (9th Cir. 2010). Also, Local
 8 Rule (LR) IA 6-1 requires a movant to state the reasons for the extension requested, and
 9 LR 26-3 requires that a motion to extend any date set by the discovery plan, scheduling
 10 order, or other order must, as well as satisfying the requirements of LR IA 6-1, demonstrate
 11 good cause for the extension.*

12 Good cause exists for a brief extension because the OAG assigned this action—in
 13 addition to twenty others—to Attorney Smith just today. Because of a high caseload, a
 14 severe shortage of attorneys in the Division, and multiple upcoming deadlines, Attorney
 15 Smith needs additional time in which to respond adequately to the issues raised by
 16 Plaintiff's response (ECF No. 100), especially when the exhaustion issue has the potential
 17 to dispose of the action at an early stage of the litigation process.

18 In sum, because Attorney Smith did not draft Defendants' motion to dismiss and
 19 assumed defense responsibilities today, and because Plaintiff's opposition requires further
 20 attention and research on Attorney Smith's part, Defendants respectfully ask for
 21 permission to submit a reply brief no later than October 11, 2021. Neither party will suffer
 22 prejudice because of this brief extension; in fact, if the court deems adjudication of the
 23 exhaustion issue appropriate and legally justified at this early stage of the litigation—
 24 rather than at the summary judgment stage—it stands to preserve precious judicial
 25

26 * LR 26-3 lists four factors that are considered. Arguably, these apply only when a party
 27 moves for an extension to extend a discovery deadline or to reopen discovery; here, Defendants
 28 neither move to extend a discovery deadline nor move to reopen discovery, so an evaluation of
 LR 26-3's factors is unnecessary.

resources; also, counsel for both Plaintiff and Defendants, all of whom are taxpayer-funded, stand to conserve possible wasted time, effort, and expense.

DATED this 29th day of September, 2021.

AARON D. FORD
Attorney General

By: /s/ Alexander J. Smith
ALEXANDER J. SMITH (Bar No. 15484C)
Deputy Attorney General
Attorneys for Defendants

IT IS SO ORDERED:

Dated: October 1, 2021



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE